

**ASSEMBLY BILL**

**No. 846**

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**Introduced by Assembly Member Bonilla**

February 17, 2011

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An act to amend Section 316.2 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 846, as introduced, Bonilla. Dependent children: notice to alleged fathers.

Existing law requires the juvenile court, at the detention hearing held in a dependency proceeding, or as soon as practicable, to inquire of the mother and any other appropriate person as to the identity and address of any presumed or alleged father of the child who is the subject of the proceeding, and specifies the factors the court may consider in this regard.

This bill would make a technical, nonsubstantive change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 316.2 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 316.2. (a) At the detention hearing, or as soon thereafter as
- 4 practicable, the court shall inquire of the mother and any other
- 5 appropriate person as to the identity and address of ~~all any~~
- 6 presumed or alleged ~~fathers~~ *father*. The presence at the hearing of

1 a man claiming to be the father shall not relieve the court of its  
2 duty of inquiry. The inquiry shall include at least all of the  
3 following, as the court deems appropriate:

4 (1) Whether a judgment of paternity already exists.

5 (2) Whether the mother was married or believed she was married  
6 at the time of conception of the child or at any time thereafter.

7 (3) Whether the mother was cohabiting with a man at the time  
8 of conception or birth of the child.

9 (4) Whether the mother has received support payments or  
10 promises of support with respect to the child or in connection with  
11 her pregnancy.

12 (5) Whether any man has formally or informally acknowledged  
13 or declared his possible paternity of the child, including by signing  
14 a voluntary declaration of paternity.

15 (6) Whether paternity tests have been administered and the  
16 results, if any.

17 (7) Whether any man otherwise qualifies as a presumed father  
18 pursuant to Section 7611, or any other provision, of the Family  
19 Code.

20 (b) If, after the court inquiry, one or more men are identified as  
21 an alleged father, each alleged father shall be provided notice at  
22 his last and usual place of abode by certified mail return receipt  
23 requested alleging that he is or could be the father of the child.  
24 The notice shall state that the child is the subject of proceedings  
25 under Section 300 and that the proceedings could result in the  
26 termination of parental rights and adoption of the child. Judicial  
27 Council form Paternity-Waiver of Rights (JV-505) shall be  
28 included with the notice. Nothing in this section shall preclude a  
29 court from terminating a father's parental rights even if an action  
30 has been filed under Section 7630 or 7631 of the Family Code.

31 (c) The court may determine that the failure of an alleged father  
32 to return the certified mail receipt is not good cause to continue a  
33 hearing pursuant to Section 355, 358, 360, 366.21, or 366.22.

34 (d) If a man appears in the dependency action and files an action  
35 under Section 7630 or 7631 of the Family Code, the court shall  
36 determine if he is the father.

37 (e) After a petition has been filed to declare a child a dependent  
38 of the court, and until the time that the petition is dismissed,  
39 dependency is terminated, or parental rights are terminated pursuant  
40 to Section 366.26 or proceedings are commenced under Part 4

1 (commencing with Section 7800) of Division 12 of the Family  
2 Code, the juvenile court which has jurisdiction of the dependency  
3 action shall have exclusive jurisdiction to hear an action filed under  
4 Section 7630 or 7631 of the Family Code.

5 (f) After any inquiry, proceeding, or determination made  
6 pursuant to this section, the juvenile court shall note its findings  
7 in the minutes of the court.

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